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ABSTRACT

This 1976 document discusses the growth and impact of collective bargaining on higher education, based on examples from the City Colleges of Chicago (Illinois). The paper provides background information on the growth of unions in higher education, highlights the differing perceptions of unions, describes the components of a union contract, and lists specific actions for administrators to take when engaging in collective bargaining. Included are discussions on: (1) dealing with unions; (2) faculty unionism; (3) the external union; (4) perceptions; (5) union security, specifically dues checkoff, type of organization, restrictions on other organizations, protection of the integrity of the bargaining unit, released time for union chapter officers and grievance chairmen, and discipline and reprisals; (6) the grievance mechanism; (7) standardization of personnel practices; (8) de-emphasis on departmental decisions; (9) continuous negotiations; (10) status quo; (11) budget; (12) specific actions; (13) organization and preparation; (14) the first contract; (15) the sacrosanct contract; (16) defining the bargaining unit; (17) scope of agreement; (18) contract duration; (19) leverage, including appeal to authority, personal insult, threats, demeaning, stalling, fatigue, the use of experts, consultants, and witnesses, demand for written counter proposals, demand for data and other information; (20) strike; (21) court action; and (22) students. (AS)

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Further Observations on Collective Bargaining

John F. Grede

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FURTHER OBSERVATIONS ON COLLECTIVE BARGAINING

(Presented at Orlando, Florida, for the Continuing Education Division of the University of Florida)
Friday, May 21, 1976

There are a few preliminary points which seem significant to me about the relationship of collective bargaining to higher education, or to all education for that matter. The first is that that there are no simple answers, no certainties, no pat formulas. There are no ready-made models and even the two major types, the collegial model and the industrial model, have many sub-types and many variations. In fact, the longer I have been involved in faculty bargaining, the more variables appear to have been injected into the situation. After ten years of collective bargaining in the City Colleges of Chicago, I believe we are still trying to find how to deal effectively with the teachers' union. I'm not sure our union would share that viewpoint for my general feeling is that they believe they have done an outstanding job.

Another point I would like to make is that one's attitude toward collective bargaining and one's perception of the process and the roles and motivations of the individuals involved are of primary importance in what happens. The method of dealing with collective bargaining is based largely upon those attitudes and perceptions which may vary considerably from the first contract through the later contracts. Unfortunately, effective attitudes and accurate perceptions are not readily taught and must be acquired largely through one's own experience,

and certainly in this business of collective bargaining all experience is useful even though it may merely serve as a bad example.

My experience is essentially Chicago experience - a strong labor town where the AFL/CIO is a great influence with the power structure - in fact it is part of it. The American Federation of Teachers had its headquarters there initially and the common school system out of which our present City Colleges of Chicago grew had a unionized faculty since the 1930's. The pro-labor climate has been very effective in promoting unionization in education despite the fact that there is no state labor relations statute to mandate, or even encourage, collective bargaining in the public sector.

The seven campuses (now eight, including the Skill Center which provides high school credit courses, basic literacy programs, and CETA vocational training) were organized by the Cook County College Teachers Union at the very vulnerable time when the colleges themselves were trying to get organized as an independent community college district recently separated from the common school system. This was in 1966 when the collective bargaining election was held in Chicago, preceded among the two year community colleges only by the Milwaukee Area Technical College and the Henry Ford Community College in the Detroit area. Today the Cook County College Teachers Union has organized not only the eight City Colleges but four of the ring of suburban community colleges surrounding Chicago. In addition it has sizeable membership groups, although not majority control, in several of the other satellite community colleges around Chicago plus at least three of the baccalaureate oriented state colleges within

the Chicago metropolitan area. The union is in fact as well as intent emerging as an industry-wide bargaining unit for all of higher education in the Chicago metropolitan area.

Some writers have referred to our union as the militant industrial type and certainly the six strikes during the five rounds of contract negotiations over the past ten years would seem to support that point of view.

I say all these things by way of identifying my own frame of reference and if you are skeptical or disturbed by some of my observations, you may be able to console yourself by saying that it can't happen here, that conditions are totally different.

In 1966 we entered upon collective bargaining grudgingly but with considerable sympathy for the faculty who had been second class citizens under the common school system. The central office administrators, who pretty much made up the management team, took the position that if union requests were reasonable, if they appeared to be helpful, we would go along. We were partially convinced if not consoled by the union argument that what was good for the faculty would promote effective instruction, an efficient organization, and better service to students. Our first chief negotiator, a law professor, believed he could create a model contract, one in which faculty/administration relationships could be organized in a positive framework in a spirit of building a base for harmonious cooperative relationships and setting a pattern which could be emulated in higher education. We never anticipated the growth of union strengths, the acceptance by the faculty, the expansion to other

institutions, nor the breadth and depth of impact on organizational operations. We did not foresee the militancy, the adversarial relationships, the costliness in time and money, the standardization of practices the duality of governance, the crusading zeal of union leadership, the importance of external influences, particularly labor union leadership outside the negotiating table, the need for preparation and organization in conducting negotiations. We were naive - psychologically and materially unprepared. We have been ten years trying to compensate for the naivete and unpreparedness of that first contract.

How to Deal with Unions

As a result of our experiences in Chicago, my whole approach is that of a highly defensive posture, moving as slowly as possible, giving ground only on the absolutely essential and developing the best philosophy and mechanisms possible for dealing with what may be charitably described as a necessary evil. My initial impulse in answer to the question of how to deal with unions would be to say as little as possible. But that is unrealistic since, in our experience, once you are involved the relationships are difficult to contain and appear to expand to the level of total involvement. And yet for this total involvement I have yet to see the study that can show any substantive advantage in faculty unionization insofar as economy or the quality and quantity of instruction is concerned. I must say also that I'm not sure we can show any documentation indicating that instruction has been adversely affected. On this question of what benefits accrue

from collective bargaining, in the last round of negotiations in Chicago I asked the chief negotiator, president of the Cook County College Teachers Union, who has proved his loyalty and zeal by serving two terms in the county jail for injunction violations, what the Board buys for granting improvements in salary and fringe benefits and for expanding faculty involvement in governance and decision-making. I had anticipated that the answer would be that happy faculty provide more effective instruction, and this probably would have been the answer ten years ago. However, without hesitation he bluntly answered, "You buy peace and quiet". Even this would have been a bargain over the ten years if it had been true. And yet for an average salary increase of 10% per year plus somewhere between four and six thousand dollars worth of fringe benefits, plus very extensive participation in the governance of the institutions, City Colleges really have bought turmoil, unreasonable expectations, and unabating adversarial relations.

Scope of Faculty Unionism

Before dealing in any detail with collective bargaining, including perceptions of the process, contract characteristics, and the "do's" and "don'ts" of the negotiating process, it will probably be useful to look at the quantitative changes that have occured in collective bargaining in higher education over the past ten years. What was almost a unique experience for the City Colleges in 1966 is fairly commonplace today. Recently Professor Joseph Garbarino of the University of California at Berkeley and director of the Faculty Unionism project sponsored by the Carnegie Corporation, in a recent research report has identified over 100,000 faculty now under collective

bargaining in almost 400 institutions of higher education. This is a full 20% of all full-time regular faculty. Some whole systems are now organized including the community colleges in Minnesota and Massachusetts and the state colleges in New Jersey, Minnesota, and now Florida. The community colleges account for only one-third of the organized faculty but represent some two-thirds of all organized higher education institutions, all but a handful of which are public.

The rate of growth of unionism, however, is more surprising than the totals. For the entire education industry, in ten years approximately one-third of elementary, secondary, and higher education has been organized. By contrast it took forty years to organize the same percentage, one-third, of the private sector of American business and industry. Certainly an important factor in the growth rate has been the enactment of labor relations statutes such as the recent legislation in Florida. As you know, Florida is one of approximately 30 states so provided with legislation which has encouraged collective bargaining in the public sector. Labor relations statutes have been of great significance in concentrating three-fourths of the higher education unionism in four states - Michigan, New Jersey, New York and Pennsylvania. The new legislation in Florida, California, Iowa, Massachusetts and Oregon may very well dilute that concentration.

Collectively the volume, the pace of organization, and the encouragement of enabling labor relations legislation have undoubtedly convinced more and more faculty that there is no contradiction between professionalism and unionism. The recent Ladd-Lipset

Survey in The Chronicle of Higher Education bears that out.[1] For all of these reasons there is a kind of an inevitability about the move of unionism into higher education. This inevitability thesis seems to have acquired acceptance in spite of earlier predictions that the move of unionism into higher education would be blunted if not halted by philosophical resistance of the senior institutional faculty and by the declining enrollments of the 1970's and the consequent economies in hiring and retention of staff.

The External Union

The great and rapid growth of unionism in higher education is almost exclusively through external unions, those that are affiliated with one of the three major national organizations - the American Federation of Teachers, the National Education Association, and the American Association of University Professors. This has been true in spite of the ideal, which many administrators endorse, of the self-governing community of academia wherein decisions are made by consensus involving faculty and administration in a process that is contained wholly within the academic community. The passing of this ideal, and some writers indicate it never really existed, is clearly indicated in the development of the external unions. Professor Garbarino has commented on this as follows: "What is new in American education is the creation of organizations of faculty outside and independent of the institutional structure that are recognized as the

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1. Ladd, Everett Carll, Jr., and Lipset, Seymour Martin. "The Growth of Faculty Unions." The Chronicle of Higher Education, January 26, 1976, p. 11.

official representatives of the faculty in formal negotiations for terms and conditions of employment. Collective bargaining also usually brings with it an array of practices that have evolved over the decades of experiences with bargaining in the private sector of the economy and more recently in the public sector as well. These include (1) exclusive bargaining rights; (2) written comprehensive contracts; (3) formal grievance procedures; (4) third party intervention in grievance settling and handling of impasses; (5) compulsory financial contributions; (6) strikes and other direct pressure tactics."[2]

The trade union or industrial model which Garbarino has identified here regards the teachers as workers and the board and administration as management. In a sense the perennial economic struggle between labor and management is continued into the ranks of professional educators. Within this context, imminent, outright, and continuing conflict can be avoided only by collective bargaining. In the event the collective bargaining process breaks down or is otherwise ineffective, then picketing, strikes, and other types of work stoppages and pressures are used. Virtually any means may be invoked to produce the desired results.

One very important characteristic of the outside union, the trade union model, is that an entity is developed which has its own life, its own political drives, its own security needs. It may be totally independent of the educational mission of the

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2. Garbarino, Joseph. Faculty Bargaining - Change and Conflict, McGraw-Hill, New York, 1975, p. 27.

institution to which it is attached and potentially contrary to it. Commonly the membership extends beyond the individual institution either, as in the case of our American Federation of Teachers Local 1600, to some twelve separate community colleges plus four-year institutions or, by affiliation, to the Illinois Federation of Teachers as well as to the Chicago Federation of Labor, the Illinois Federation of Labor, and the American Federation of Labor/CIO. Thus in addition to membership which extends beyond the bounds of the individual institution, and that extra-institutional membership and its needs must be considered, there are the affiliated labor organizations whose policies, procedures and funding needs must also be considered. Beyond the membership question and the affiliations, the very decision-making procedures themselves utilize outside agencies at impasse when negotiations break down, or when grievances cannot be resolved. Such external agencies include the State Employment Relations Commission, professional mediators, and arbitrators provided either through a public agency or through the American Arbitration Association. These processes for the resolution of impasse, however necessary to collective bargaining, effectively take the final decisions outside the walls of the institution.

Perceptions

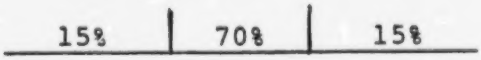
Hopefully much of what has been said previously has a substantial basis in fact. Equally important, however, in working with collective bargaining, is the area of perceptions which often may be as significant as the reality of the situation.

In 1946 a classical study was done by a Yale labor economist, E. Wight Bakke, who, as a prelude to a better understanding of collective bargaining and how it should be dealt with, did a detailed study of both labor union leaders and management personnel in the private sector as to how each perceived the bargaining process and each other. To the best of my knowledge, this kind of thing has not been done sufficiently in the public sector, and particularly in higher education. I suppose not enough institutions have lived with collective bargaining long enough to do this kind of in-depth study. I would like to comment, however, on some perceptions that I have noted, largely among administrators, in some ten years of experience in Chicago.

The material benefits of unionism are perceived as obvious - increased salary, guaranteed annual increments, expanding fringe benefits, shorter hours, shorter work year, lower teaching load, greater job security - all of these material benefits are equally available to all members of a collective bargaining unit and are based largely on seniority and living long enough. All of these advantages are available in a kind of anonymous context in which the individual faculty member can maintain his self-concept of professionalism and permit the union to press for the kinds of things he might be hesitant to seek out if it were a highly individualized face-to-face bargaining session.

This does not mean, however, that the union is a homogenous organization, that all members have common goals and motivations. Applicable here is the classical analysis of the union

organization or of any social group for that matter.



In the diagram above the 15% of union membership on the left represents the militants, the leadership, the union officers, the grievance chairmen, and those who identify their career line as much if not more with unionism than they do with teaching. The 15% on the other end of the continuum represent those who identify more closely with management and administration - the potential department chairmen, or deans, or administrators, or those who believe they have more to gain through the administration than the union, or those faculty who are frankly opposed to the concept of unionism. The 70% in the middle have sometimes been called slot machine unionists who take no active role, remain anonymous, pay their dues, and expect some kind of continuous return for their investment, which in our shop is eight/tenths of one per cent of their base monthly salary.

In addition to material benefits, which is pretty much where unionism is content to confine its efforts in the private sector, the educational unions seek to impact on management and to secure more influence on governance, including a larger role in decisions on curricula and courses, on the selection of their colleagues, the determination of department chairman, and even in the appointment of administrators. This kind of thrust administrators and trustees commonly see as inverting the power pyramid with their legally delegated managerial rights being taken away by an external organization

which establishes terms and conditions for what administrators and trustees regard as their faculty, their employees, their people.

It comes as a real shock for trustees, in particular, to see the board rules subordinated to contract provisions hammered out in negotiations. But that is exactly what happens when an agreement is negotiated. Union contract provisions actually become a part of board rules and regulations, if not the most significant component, and where there is a conflict the union agreement prevails.

The administrators and trustees commonly see the faculty, through their external union, invested with much authority but with virtually no acceptance of responsibility for educational outcomes, for the economy or the efficiency of educational operations, or even for carrying out the routine and nitty-gritty of administrative responsibilities which they have pressured the Board to grant them in the contract.

On the other side of the issue, faculty tend to perceive themselves as the experts in education, which includes management of the educational institution. In unionism they have joined together to protest the unilateral administratively controlled decision-making process by which their lives and careers have been determined. The administrator commonly is viewed as a person handling non-academic matters and therefore doing little more than that which a competent secretary could do. Consequently, so the argument goes, why not put more power in faculty hands since this is a kind of natural drive for the working and producing group to control its own destiny.

This thrust into managerial areas has perhaps been more traumatic with community colleges which historically in this country have been administrators' organizations. In contrast, senior institutions have had more faculty influence, more faculty participation in governance, and the impact of collective bargaining has been later, and in the view of some writers may not be as great if faculty involvement in governance is substantial. Kemerer and Baldridge point out that unions tend to appear where there are weak senates or presumably no senates.[3]

Regardless of which perceptions prevail or are even correct, what is emerging is a basic issue of institutional accountability. With the power changes occuring in some institutions, almost no one can be held accountable for the success or failure of the institution as a whole. Regional accrediting institutions are vitally concerned. The Council for Postsecondary Accreditation (COPA) which inter-relates six regional accrediting associations, has a Carnegie grant to study the relationship of collective bargaining to accreditation. It already has a preliminary study of the Middle States where unionism has been strong and is now revising that preliminary report on the basis of North Central Association experiences centered in Michigan, Illinois, and Wisconsin.

Union Security

The external union is in effect an independent entity

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3. Kemerer, Frank R., and J. Victor Baldridge, "The Impact of Faculty Unions on Governance," Change, Winter 1975-76, p. 50.

that has drives of its own which the general faculty may or may not support or even realize but about which union leadership is quite cognizant. Many of the needs and demands of the union as union, concerned about its own preservation and growth, are found in what is loosely defined as union security measures. These are often embodied in the collective bargaining contract. These security measures, which the educational institution is expected to provide purely for supporting the existence and growth of the union, include the following:

A. Dues Checkoff. A provision for dues checkoff normally mandates the administration to deduct union dues from payroll, commonly with limited revocation rights on the part of the faculty. In effect, in administration eyes, it acts as the agent to collect and insure the maximum of dues payment for the union and to provide it with financial security.

B. Type of Organization. Union control over its constituency is authorized by a collective bargaining election in which the union becomes the bargaining agent, not just for its own members but for all full-time faculty and possibly part-time faculty within the institution. The degree of control over membership ranges from an open shop through increasingly controlled stages - maintenance of membership shop, agency shop, union shop, preferential hiring shop, and a closed shop. All of these types of controls on membership are drawn from the private sector, from business and industry, and range from complete administrative control over the hiring and firing process to the closed shop

wherein an individual teacher has to be a member of the union before he is hired and exclusion from the union may be a basis for firing.

An intermediate type, the agency shop wherein all faculty, be they union members or not, pay for the services of the union, is growing in number. Two states currently require it by legislation and in several others it is permissive. Our union has demanded this in the last four rounds of negotiations but so far has been unsuccessful.

C. Restrictions on Other Organizations. The union as union commonly seeks to restrict or eliminate the competing organizations within the institution. To further this goal it seeks union observers or representatives for any committees established. It opposes the resolution of grievances through any other mechanism, be it AAUP, NEA affiliate, faculty senate, or even individual efforts. The union seeks priority over other organizations in the scheduling of union meetings. Some students of unionism in higher education support the concept of the union which handles the bread and butter items of salaries, fringe benefits, and working conditions, and a faculty senate or faculty council to handle educational matters. We have found problems in making this work. Officially the union consistently derides the faculty council as a company union. Unofficially faculty council members characteristically are also union members and it is extremely difficult for them to take off one hat and replace it with another distinct and different approach. Finally, the union may grieve in its own

right as an organization in cases where individuals choose not to grieve and the union believes its contract rights are involved. This is a right which no other campus organization may enjoy.

D. Protection of the Integrity of the Bargaining Unit. Union leadership in our experience seeks constantly to maintain its membership or preferably to increase it. The union seeks to preclude changes in job titles where such a change may take individuals outside the bargaining unit. It has opposed short-term self-terminating employment contracts which give the administration flexibility in hiring during these uncertain times. This type of contract, however, gives a short life to some union members. Although the union agrees in theory that in a dire emergency the board may reduce expenses by eliminating faculty, in practice it has through grievance and arbitration, through complex due process requirements for hearings and consultations, plus restrictive recall provisions, made it virtually impossible to reduce force once a faculty member has been hired.

E. Released Time for Union Chapter Officers and Grievance Chairmen. Many faculty unions cannot afford to pay for union work from their own treasuries. One alternative is that of securing through negotiations released time from teaching and other duties to compensate for the performance of union functions. This arrangement may apply to the union officers, and in a multi-college operation such as the City Colleges of Chicago, applies to chapter chairmen at each of our colleges and also to grievance

chairmen - those who have a specific job of reviewing grievances and making decisions as to whether or not the union will support those grievances up through the various levels of the process.

When an institution provides released time for union functions, it not only incurs expense (at present the City Colleges' contract provides the equivalent of five full-time teaching positions, roughly $90,000 worth, for union functions) but it helps support the process in which virtually all grievances against the administration are supported, whatever their merit, and may even be solicited in order to build and maintain popular support for the union officials.

F. Discipline and Reprisals. One surprising facet of union security is the enforcement of discipline, even to the extent of instituting reprisals against "disloyal" acts of union members. This kind of measure is particularly in evidence during strikes or immediately following strikes. Wherein our contract forbids reprisals by the administration, it has no reciprocal arrangement for the union. Consequently, reprimands and fines are used with considerable frequency to punish offenders and to strengthen strike discipline, presumably for future occurrences. I recall at least two instances from the last strike where the union imposed fines ranging from $500 to $800 for crossing picket lines. The union offered the offending members the alternative of dropping their union membership which in these two cases the offenders readily agreed to do.

In summary, the pressures for union security if not vigorously resisted or minimized by the administration result in an educational establishment not only authorizing a collective bargaining agent, which is in fact independent of the institution, but also supporting and subsidizing that organization to do the very job of taking away from management the latitude it requires to run the operation efficiently and economically. What is worse in administrative eyes is that the union transfers loyalty from the educational institution to itself, enforces that loyalty and gets the board and administration to cooperate in the process.

The Grievance Mechanism

One of the highly touted advantages of a faculty union contract as contrasted with faculty senate or council is that the union contract commonly provides for a grievance mechanism to handle cases for individuals, even to the level of binding arbitration. Administrators, however, commonly view the grievance mechanism with its intricate details as an annoying and time consuming process in which they get no credit for trying to provide equity or justice for faculty members with real or imagined unfair treatment. Where the grievance mechanism culminates in binding arbitration by an agency outside an institution, it becomes on one hand a potent device to enforce the terms of the agreement but it also becomes a strong deterrent to bold and aggressive administrative decisions. The administrator of the 1970's often has to thread his way carefully through a number of contract provisions before he can make a decision, particularly involving personnel, and then he is never quite sure whether or not he is going to be hit with a grievance. The union

commonly uses the threat of a grievance in the same way that the threat of a lawsuit may be used to discourage action.

In addition to the use of the grievance as a threat, there is the potential that the sheer volume of grievances may simply overwhelm the administrative structure. In the beginning, the faculty members voting for collective bargaining are choosing a vehicle to get solutions to their existing problems. However, as Garbarino expresses it, "Once established, by institutionalizing the management of discontent, the union may generate an independent organizational momentum that identifies or activates problems that otherwise might have remained dormant. The union has a need to encourage grievances, or at least not to discourage them for its own organizational and political health as evidence of its reason for being. If there are no grievances, it may have to manufacture some."[4]

Standardization of Personnel Practices

A union contract brings about more systematic and open procedures for personnel practices which become carefully identified and made consistent with one another. Hiring practices, promotions, salary, tenure requirements, are more equitable and more predictable. This is a move toward equality for all as opposed to recognition of merit. But it is accompanied by a leveling effect which brings with it equalized but limited workloads, a move to tenure

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4. Garbarino, Joseph. Faculty Bargaining - Change and Conflict, McGraw-Hill, New York, 1975, p.

all faculty as evidence of job security rather than as an entrée to a profession based on colleague recognition, and finally, across the board salary increases.

The standardization pressure, particularly when it applies in areas such as teaching load, class size, registration, days and hours of operation, has particular significance in multi-unit operations such as the City Colleges. It promotes a high degree of centralization and standardization which precludes very much experimental or innovative developments in separate units of the system. Flexibility for individual campuses is markedly reduced. It has been pointed out in our operation that if the central administration really wanted to reduce campus autonomy and centralize decision-making, it would be hard pressed to find a better partner than the union.

De-emphasis on Departmental Decisions

The pressures toward standardization have a strong impact on the level at which decisions are made, particularly in cases where the department chairman is elected or otherwise is an integral member of the bargaining unit. Decision-making tends to be pushed to a level above the department - to the deans or vice presidents - because the department chairman tends to be regarded more as a union steward than as part of the management team. In addition there is created some pressure to reorganize the faculty units along larger groupings, commonly divisional in nature rather than representative of specific disciplines. Such faculty units may be headed with full time deans or assistant deans who are safe within

the administrative hierarchy. Unfortunately, this move furthers the estrangement between two camps and reduces the historic movement of faculty into administration and administrators back to faculty.

Continuous Negotiations

Administration and trustees, particularly after a number of contracts have been negotiated and administered, see the relationship with the union as a continuous one. Any real separation or breathing space between formal negotiations and contract administration tends to evaporate. There is no real return to normalcy after the passage-at-arms at the negotiating table has produced a written agreement. All relationships, even simple discussions, joint committee meetings, grievance hearings, arbitrations, take on the character of bargaining for a little bit of improvement here or the acquisition of a little more benefit there. The commonly held concept of a long and protracted negotiating session wherein two teams joust with one another for a period of time and then quietly cohabit with their mutual product until the next round of negotiations does not really exist, or at least is less evident as one gets more deeply into relationships with the union. This continuity of relationships, as will be dealt with later, has much relevance for the way an institution staffs and organizes for collective bargaining.

Status Quo

In the eyes of administration the union resists innovation and discourages planning for change. It holds for the status quo, for the conservation of that which it has without foregoing

additional gains. The recent insistence on job security, almost to the de-emphasis of salary increases, reinforces resistance to change to the point of complacency. This places the burden of adjustment to change and the encouragement of change and innovation on administration. Unfortunately with the contractual obligation to meet the dollar demands of faculty salary provisions, some boards tend to hold administrative salaries constant or to provide minimal increases, thus effectively discouraging the very source from which adjustment to change must come.

Budget

Administration and trustees commonly see the union as totally without concern for any budgetary matters that are not directly identified with faculty benefits. The evidence for this perception is reasonably clear in that the result has been a larger portion of budget set aside for salaries with a consequent decline in the funds for research, sabbaticals, supplies, travel, and clerical services. Over and above this impact on allocation of resources, the union tends not to believe that the budget is an accurate and honest representation. Furthermore, the union is often not interested in going into the budget in enough detail to make an objective determination. One of our negotiating sessions in recent memory included the statement by the union chairman which ran pretty much as follows: "We know there is money hidden in the budget but we can't prove it."

The board and administration see the union as using various pressure tactics to push the administration and board beyond

their capacity to fund improvements for the faculty, and thereby not only shorting out funding for other necessary services but inviting governmental interference in some states and possibly even restrictive legislation which would mandate certain state-wide provisions, such as minimum teaching load. Caught between the millstones of union pressure on one hand and increasing state control on the other, the autonomy and decision-making of local administration may be evaporating rapidly.

Specific Actions

Given the various perceptions identified above, and this is by no means an exhaustive list, what kinds of things can and should be done? Some suggestions were embodied in the account of the perceptions. But there are other ones worthy of note, particularly for management.

Organize and Prepare

Administration commonly enters collective bargaining at a disadvantage in terms of its attitude toward preparation. Often the management approach is to play it cool and sit tight and see what the union comes up with. It is amazing how much homework the union can do in preparation for negotiations. This was true for us ten years ago. Today there is a large training network currently in operation to prepare AFT and other negotiators which virtually insures that you will not face rank amateurs. Organization and preparation by the administration implies the creation of a unit specifically designed to handle employee and labor relations. Preferably it means

a staff which not only can handle the table talks but which can also handle the routines, the day-to-day operation of the personnel office, and the maintenance of personnel records as well as grievances and arbitration. The establishment of a personnel unit for labor and employee relations requires that the individual in charge has enough status to over-ride academic deans and department chairmen, and to communicate directly with board members if the need arises. In essence there seems to be increasing argument for combining the negotiations and the personnel components of contract administration in one unit.

The use of outside legal talent, particularly professional negotiators, as an integral part of the collective bargaining process is one that is still unresolved. The union brands such outside talent as the "hired gun" and will usually object vigorously, even though in general neither side may exercise any jurisdiction over the composition of the opposite side's negotiating team. There are obvious situations where legal talent is essential, particularly in first contracts and drafting of language. Nevertheless, over the long haul, permanent staff personnel, preferably with legal training and experience, should take over the basic responsibility for negotiations and the administration of the contract. This kind of arrangement is an overt and necessary recognition of the institutionalization of relations between union and management.

Part of the preparation for collective bargaining is the establishment by the principals, be they board members, chancellor, or president, of a clear and understandable set of parameters to guide

the management negotiating team. Our experience indicates that this is critical as well as necessarily continuous. It is not enough to establish the parameters at the beginning. They must be reviewed periodically in the light of changing circumstances and adjustments may need to be made. We have never yet been able to start with a set battle plan and work that through consistently and completely.

Preparation and organization includes attitudes which will impact on the entire process of collective bargaining. A whole-hearted embracing of unionism may bring peace but it will probably be accompanied by bankruptcy. If on the other hand the attitude of the administration and the board is consistently antagonistic, it not only creates a tremendous barrier to effective communication but it is probable that complete and consistent opposition may be self-defeating. Let me cite an example. In our last round of negotiations completed this past September, the Cook County College Teachers Union was making a very strong bid to organize and provide full contract benefits for a new category of employees in our Skill Center. These employees are funded on soft money, outside funding from the Department of Labor. They teach a forty hour week, and normally do not have the same level of qualifications as the regular faculty in our traditional colleges. The board team, unwilling to concede much to the union in regard to this special category of employees, was reluctant to identify for the union the totality of the members in this potential new component for the bargaining unit. The union on the other hand was so anxious to do something for the group that it bargained for an

average $500 wage increase for only a part of the group, not realizing that it ignored fully half of the potential members within the unit. Unfortunately the Board was in an untenable position since if it gave an increase to only part of the group there would be an impossible morale problem. The union, of course, would not accept blame for poor negotiations but readily turned the wrath of its own people against the board. In final analysis, then, the board had outsmarted itself in holding back information and had to grant raises to a larger component than the union had bargained for simply in the interests of maintaining equity and a degree of managerial efficiency, and of course the union got all the credit.

The First Contract

By all odds, the negotiation of the first contract is the most significant step. In this most critical phase, the board team should be prepared, including a set of its own proposals, even though in this first round those proposals may simply consist of reducing existing faculty benefits or increasing faculty workloads. If you don't do this, the chances are you have a very thin base from which to bargain and you further concede control of the agenda to the union's proposals.

The first contract is most significant also in terms of setting the pace of the entire relationship. Our own experience is that in the interests of righting many wrongs that had been perpetrated on community college faculty over many years in which they were part of the secondary school system, the board and the

administration went overboard in granting rights and privileges, salary increases, fringe benefits, somewhat beyond the level of expectation of the faculty union negotiators in this first contract. We gave the union not only money but important principles which we have subsequently regretted. These extensive concessions, partly wrested from the board by a very effective strike, set an impossibly fast pace for the succeeding four contract negotiations. In essence we gave too much too fast, and the level of expectations in the minds of faculty members in the union was totally out of keeping with the board's later ability to give as much, particularly with the coming of less affluent times in the 1970's.

The Sacrosanct Contract

The first contract is not only important because it sets the precedent, pattern and pace of granting faculty proposals but also because it virtually becomes set in concrete. Basically this is because the union regards the contract not as an agreement between the board and the union but as its contract, something that it has expended much time and effort to get, and perhaps even has gone through a strike and lost wages to secure. Typically the contract binds the board much more than it does the union, and this is undoubtedly because the board started with everything and the union started with nothing, and anything the union gets is what the board has given it.

Characteristically it is the board, not the union, that agrees to perform certain functions, to provide guarantees. The matter of reprisals is an example wherein the board commonly

agrees not to institute reprisals after a strike. Should not the union do likewise? Our experience is that the union is much more likely to punish faculty for non-union or alleged non-union activities than the board is for pro-union activities. The moral of this story is to obligate the union as much as possible. In retrospect, I think one of the great deficiencies of our contract is that we have lent credence to the union's assertion that it is their contract since in very few areas do we obligate the union, and through the union, the faculty, for performance, for acceptance of responsibility for student advisement, for acceptance of evaluation, particularly student evaluation. In general much was given to the faculty through the union contract but little was demanded or even requested in return.

This imbalance has created a peculiar inconsistency. Our contract has a reciprocal grievance provision so that the board may file a grievance against the union. This has been used very sparingly, in part because the union is obligated so lightly under the contract.

Perceptions of the nature of the contract were revealed quite clearly in our last round, the fifth round of negotiations with our union. Not only is the contract regarded as the union's contract but in complete consistency the union represented it as a rock, a shield, an unchanging guardian of faculty rights and privileges. Unceasingly, the union charged the board with attempts to erode the contract. The union saw nothing inconsistent in accretions, in adding to that rock by limitless proposals, some 105 in the last series of table talks. But eroding the rock was another

matter. The board, by contrast, and particularly after the fourth or fifth contract, tends to see the agreement as a more flexible item, a living document, if you will, capable of being amended or adjusted as circumstances, particularly economic circumstances, change. It is also a comforting view if you are trying to get back some things you gave away and it appears reasonable that after four or five contracts the union does have something that it can give back.

Because of this very protective attitude of the union toward the written word in the contract, it is extremely difficult to remove an item or change language once it is part of the agreement. In addition to the protective approach of the union, the language tends to become fixed because it relates to grievances and particularly to arbitration cases. Arbitration decisions, in our case handled through a permanent arbitrator provided through the American Arbitration Association, in effect constitute interpretations of the language in the contract. This is somewhat analogous to court decisions on statutory or constitutional law and constitutes a gloss on the contract. The body of arbitration decisions and a few court decisions, totaling approximately 65 in our case, depend upon specific written language within the contract. Consequently there is reluctance, commonly on both sides, to change contract language because of its effect upon interpretations based upon arbitration decisions.

Defining the Bargaining Unit

A most critical item, not only in the first contract but even in subsequent contracts, is the definition of the personnel

to be included within the bargaining unit. Commonly, full-time classroom teachers are a fixed part of most bargaining contracts. However, other categories such as part-time faculty, counselors, librarians, departmental chairmen, administrative assistants, and so-called "project personnel" who are on grants or soft money, are other categories which are fair game for the organizational thrust of the union.

In retrospect, one of our most regretted concessions was to allow chairmen, who in our structure are still appointed by the administration but with considerable advice and selection help from the faculty, to become part of the bargaining unit. The very powerful position of the chairman as a kind of working foreman with substantial patronage powers makes him an extremely significant part of the union power structure, in our case virtually an anchor man for the union. At the same time the administration must rely upon the department chairmen for many of the most vital operational decisions and control mechanisms.

Most recently the union organizational thrust has directed itself inside our system to the growing number of personnel doing teaching duties or related educational jobs who are, in fact, employed on soft money with working conditions quite different from that of the conventional faculty and with funding usually provided by contract with very specific limitations on salary and salary increases. The fact that this category is a non-cohesive element in the collective bargaining unit does not in any way deter the union's organizational thrust to include such individuals. In summary, our

experience would seem to argue for keeping the bargaining unit defined as narrowly as possible and to retain control over any individuals who have a substantial amount of administrative assignment or whose continued employment is contingent upon special contractual relationships.

The carefully defined distinctions between teaching and administration is bringing about increasing rigidity. It unfortunately violates one of the essentials in the concept of collegiality in the self-governing academic community wherein administration and faculty move back and forth from one position to another with full confidence and support. Increasingly as a result of the growing rigidity, we find that our administrative staff no longer comes from the ranks of the faculty but rather from outside hiring. Partly this is an economic matter because the faculty salary schedule is at such a level for a relatively short work year that to convert faculty salaries to the full eleven months of administrative working time makes the transition financially prohibitive.

Scope of Agreement

In our very first contract we gave the union a most important provision which we have sought unsuccessfully to buy back ever since. This is our infamous Article XI entitled "Scope of Agreement." It reads as follows in its most critical part:

> "During the life of this Agreement, the Board will continue its existing policies and uniform practices with reference to salaries, fringe benefits and working conditions of faculty members which are not specifically covered by this Agreement."

This provision in effect expands our contract from the present seventy-two pages to an infinite number of written and unwritten policies, procedures and practices that have been in effect even prior to the coming of collective bargaining. In theory, any change in past practices is grievable. The better procedure, in retrospect, would have been to negotiate a provision which limits the contractual relationship between the board and the union to just those items that are specifically covered in the agreement, and thus changes in past practices could be made without substantive risk of grievance. In essence we should have had a "zipper clause" which limits union involvement to the items in the contract.

Not only should the agreement be specifically limited to what is in the written document but what is written should probably be as brief and as general as possible. Ours is highly specific and this may be a result of an adversarial relationship in which every jot and tittle needs to be put in the agreement because neither side really trusts the other side. One might even advance the hypothesis that the size of the contract is directly proportional to the degree of distrust.

Duration of the Contract

We have preferred a specific termination date for the contract. In the last round, in the closing hectic minutes of negotiations, we unfortunately agreed to continue the contract as long as renegotiations were continuing. This latter approach presumes a kind of continuity of contractual relationships which in a harmonious relationship is advantageous. Under adversarial conditions, however,

our board has found it useful to take unilateral action when the contract expires. This is, of course, a highly strikable kind of action but in a dire emergency it may be the only alternative.

As to the length of contract, most of ours have run for two years. In general, in the affluence of the 1960's with inflation and the anticipation of rising revenue, we have sought longer contracts. With funding, particularly for community colleges, moving in the other direction, we would prefer shorter contracts. I believe the union likewise relates its concern about the length of contract to the probability of changes in the revenue picture.

Leverage

This is perhaps one of the broadest but most significant concepts in the whole process of collective bargaining. Its effect is not limited to the table discussions themselves but extends into the whole realm of influences that impinge on negotiations and affect the outcome. Leverage is used in this context to identify the whole range of pressures, actions, influences, that are brought to bear upon an opposing team in order to get them to make concessions and to agree with one's proposals. It includes virtually every technique except the one that is the essence of academia, the use of reason.

The concept of leverage implies that what is really important is not what is reasonable but whose side you are on. Consequently one doesn't agree to a proposal because it is reasonable but only if something is received in return. We call it quid pro quo.

The following techniques would be included within the general category of leverage and, of course, in many cases may be used by the board team as counter-leverage.

1. Appeal to Authority. The union chief negotiator commonly claims expertise in negotiations and lectures to the board on how the process should be conducted. He says the proper procedure is for the union to ask and the board to reply. The board is obligated to supply information the union requests. The board is obligated to give written counter proposals or it is not negotiating in good faith.

2. Personal Insult. The union may use a hatchet man to anger the opposition, to get them to break off negotiations, to lose their perspective, or to return an insult which then can be communicated to its constitutency as representative of the calloused attitude the board has toward faculty.

3. Threats. This is a broad category - the threat of a strike vote or a strike; the threat to break off negotiations; the threat of going directly to one's principals and complaining of the alleged unfair practices of the negotiating team; the threat of a lawsuit or the filing of a charge of unfair labor practices; the threat of packing a board meeting with irate faculty.

4. Demeaning. The union berates the board team for not having the real power to make decisions. This is calculated to make the board negotiators angry or even a little bit guilty. The union publication refers to the "second line board team" which without too much difficulty occasionally appears as "second rate board

team." In the same category, the union may delay the meeting to upset the opposition, to show contempt of the administration.

5. Stalling. Long caucuses serve not only to demean and anger but, along with the delay of meetings, may be calculated to stall progress until a more propitious time. They help keep negotiations barely moving until student classes are in session when the strike threat becomes much more realistic.

6. Fatigue. Long sessions may be encouraged as a tactic to simply wear out the opposition. This is particularly effective on administrative teams who are putting in a full day of routine administrative work and then putting on another hat to become the board's negotiators. It is in the wee small hours that the board team gets punchy and the union can get concessions simply because resistance is at a low ebb and the board team just wants to get the thing over with.

7. The Use of Experts, Consultants, and Witnesses. The union may bring in labor union leaders from the private sector to berate the reluctant board negotiating team. It may bring in hand-picked experts on faculty qualifications and educational organization to try to show the board that it is out of line with what is happening elsewhere. In our latest negotiations, the union paraded a stream of counselors, librarians, special project personnel, and department chairmen through the negotiating process. Since our contract provides that the union may bring witnesses in and have them excused from classroom duties, it was common for the union to bring

in counselors over a period of two or three consecutive sessions while certain relevant provisions of the union proposals were being discussed. This obviously made it harder for the board to turn down proposals when not only the union negotiating team but a representative group of rank and file faculty members were present. The union virtually threatened to bring these people back for every session until we agreed to their proposals.

8. Demand for Written Counter Proposals. Part of the tactic for controlling the agenda and therefore the frame of reference and ultimately to get concessions is to demand written counter proposals rather than verbal reactions. The written counter proposal necessarily has to be couched in the frame of reference of the original written proposal and it further gets the issue nearer to agreement in that it puts items in actual contract language.

9. Demand for Data and Other Information. Particularly irritating to the board is an assumption by the union that a proper role for the board is to act as a research and data gathering organization for the benefit of union proposals. The union has no qualms about making a salary proposal and then insisting that the board calculate costs of it. The sheer volume of requests and the tight time lines required in negotiations adds an incalculable burden. Our general position has become one of giving only prepared public information judged essential for negotiations.

The leverages identified to date are table leverages generally. Those which are external to the negotiating table are

perhaps more significant, and our experience seems to indicate that perhaps real decisions in most negotiations are not made at the table at all but are made somewhere outside. Incidentally, one of the recognized advantages of the external union over faculty senates is its ability to call on the outside world to exert its influence on negotiations. Examples include getting politicians, labor leaders, or other influential people to call board members, top level administrators, or even elected city officials. Particularly when these calls are from top-flight powerful labor leaders in the private sector, and when the substance of the calls is transmitted to negotiators, it can exert a great deal of pressure upon the table team.

Strike. The calling of a strike vote and the actual authorization of a strike, even though it may be illegal, is undoubtedly the ultimate weapon and the most effective external leverage than can be mustered. The use of strikes does not seem to lose its effectiveness no matter how many times repeated. City Colleges have had six strikes in five contracts and the latest one was as potent and as influential in putting pressure on the administration as any previous one.

Court Action. This is one approach to counter an actual strike; that is to secure a restraining order and later an injunction. This is often the ultimate weapon for the board and may even include asking for punishment of the offenders if the court orders are ignored. One interesting variant of this is the action by students of the City Colleges who, in 1971, asked the Circuit Court of Cook County to stop

a strike and to bring negotiations to completion. This action in effect took the position of calling down a plague on both the union and the administrative houses. This action brought negotiations under the surveillance of the Circuit Court and perhaps constituted the most radical leverage ever brought to bear in the history of City Colleges' negotiations. This is also, perhaps, the best example of an earlier statement which placed the real decision-making outside the conventional negotiating table.

Students. Perhaps the role of students in collective bargaining is of utmost significance as leverage for faculty or board, or perhaps for the students themselves. Along with the tradition of faculty involvement in governance, the potential role of students in collective bargaining presents a unique characteristic of higher education.

What is the role of students? In some states, Illinois for example, public community college boards, by law, are now required to have a student as a non-voting member of the board of trustees. Should students therefore be members of the management team? At least two states now legally provide for active participation and/or observer status for students, but practical problems come to mind immediately. Can students cope with a full schedule of classes plus outside working conditions which characterize a very large majority of community college students? With their many obligations, can students still meet the rigorous and protracted schedule of negotiating sessions? Is the community of interest strong enough to warrant a primary role for

representatives of a transient community college student body, the majority of whom are part time?

It is very tempting, of course, for management to use students, to encourage them to join the management team, or even to participate as observers. Even a cursory look at typical union proposals would reveal little of importance to students, or to the measurable improvement of the instructional process. Consequently management often feels it has right on its side and that students will recognize it. The problem, however, is that for every student that management can bring into the process, who sees the management position as closer to student interests, the union will be able to muster counter influences through students who identify with faculty points of view.

Some experienced negotiators see student involvement as contrary to the confidentiality of negotiations and oppose expanding that confidentiality by including students. This latter argument is buttressed in the industrial model by the position that if the process is modified to include students, then why not alumni and possibly the entire community?

Our experience in Chicago has been that the union consistently refuses student requests to participate in any way in negotiations while the board has quite regularly invited students to participate. However, it must be said that union resistance to student participation has not generated any organized student reaction which has had any measurable effect on the course of negotiations.

Increasingly it appears that sophisticated students probably see the risk of their being used as pawns by both faculty and management. There is some realization that students may perhaps vitiate their actual interests and potential control by participating directly as members of a negotiating team. Their interests might better be served by staying aloof from the process, maintaining independence of action, and when necessary using appeal to the courts, or any other type of leverage, to maintain balance and keep the show on the road.

One general statement, I believe, should be made about leverage and that is that oftentimes it is not specific but rather it is a general climate that surrounds the negotiations process. In a very general sense there is pressure for closure of a contract on both sides of the table, and a general atmosphere of movement, of progress, encourages the opposition to do likewise. A hostile or accusative atmosphere makes the opposition feel guilty which sometimes may result in giving in or may equally result in stubborn resistance. The general climate may be manipulated as part of leverage. We have seen the union team come in roaring like a lion, pounding the table, demanding concessions. After lunch the same team comes back with a very congenial approach claiming that we are all in this together and we are all members of the same family and should work for the mutual benefit of all. We call this their "roller coaster".

In summary, in the whole area of leverage, I suspect the important thing is for the board team to be aware of the techniques

and not to be dissuaded from its general pattern of cautious, careful approach to whatever kinds of provisions are agreed to with the full recognition that whatever is signed becomes permanent and generally becomes a limitation on the latitude of the administration to run the institution.

John F. Grede